



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

TO: Barry E. Hill, Director, Office of Environmental Justice ("OEJ")
Office of Enforcement and Compliance Assurance ("OECA")

FROM: Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

DATE: September 20, 2005

RE: "Environmental Justice in the News" for the Week Ending September 23, 2005
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This memorandum summarizes select environmental justice news actions for the period beginning March 6, 2005 through the week ending September 23, 2005. The summary is limited to Lexis/Nexis searches conducted using the following query: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low***income) or (executive order 12898) or (civil right! w/25 environmental) or ("fair housing act" w/25 (environment! or zon!))." Please note that multiple articles covering the same topic were not included. Similarly, articles pertaining to international or foreign-based environmental justice issues were not included, unless they specifically pertained to the United States. Finally, because the search had not been updated for over a six month period, several items were not included, because they were no longer timely.

1. News Items

The search for the period beginning March 6, 2005, which was the date of the last known "Environmental Justice in the News" update, through the week ending August 12, 2005, which was the date that I set up all of the initial search queries that form the basis of this Report, yielded 2,780 results. Accordingly, I focused my search on items beginning August 1, 2005, which still yielded 279 hits. I reviewed all of these hits and summarized only the more recent and relevant items. In addition, I have received updates for weeks ending August 19, 2005, August 26, 2005, September 2, 2005, September 9, 2005, September 16, 2005, and September 23, 2005, which I have included in this report. Accordingly, for the period from March 6, 2005 to September 23, 2005, the following news was particularly noteworthy.

- **"Minorities Say Katrina Work Flows to Others," Wall Street Journal (Sept. 23, 2005) at B1.** A growing number of minority business owners in the Gulf Coast report that their white-owned competitors are being awarded Katrina-related government clean-

up contracts, while they remain idle. In making this claim, they point to longstanding ties between government officials and white-owned companies, as well as the Bush Administration's actions that ease affirmative-action rules for new contracts during a state of emergency (for instance, contractors do not need to submit written affirmative action plans). The Department of Homeland Security, whose Federal Emergency Management Agency division awards most Katrina contracts, concedes that only nine percent of contracts currently awarded went to minority-owned businesses. However, even critics acknowledge that the Bush Administration is in a bind, because the pressure for expedited rebuilding reinforces the need to rely on long-time suppliers. In addition, some African-American business leaders believe that the size of their companies (or lack thereof) also contribute to the obstacles that minority-owned businesses face. Nonetheless, the article concluded that the "growing minority anger over the contracts [pose] a new political challenge for the Bush Administration."

- **“Emotions Run High at Ash Cleanup Meeting: Residents Question EPA Plan to Clean Up Brown’s Dump Neighborhood,” Florida Times-Union (Aug. 10, 2005) at B-1.** On August 9, 2005, the United States Environmental Protection Agency (“EPA”) held a community meeting in Jacksonville, Florida to discuss its proposed plan to remediate the Brown’s Dump Site, where the City dumped ash from its solid waste incinerators for several decades. EPA proposed to remove about two feet of contaminated soil and replace it with clean soil. EPA’s proposal drew angry reaction from those at the meeting who asserted that the Site caused various health problems and that the contamination constituted “environmental racism” that denied the residents equal protection under the law.
- **“Judge Rebukes EPA on Rat Poison Reversal,” Washington Post (Aug. 9, 2005) at A-2.** On August 8, 2005, a judge in the United States District Court for the Southern District of New York ruled that EPA failed to protect children from rat poison exposure. In holding for the West Harlem Environmental Action and the Natural Resources Defense Council, the court found that EPA failed to justify a 2001 agreement with pest control companies, which dropped two provisions from a 1998 rule requiring the companies to include a bittering agent to prevent children from ingesting their products and an indicator dye. According to some observers, the ruling represented a significant victory for children’s health and environmental justice, because rat poison accidents are rising and disproportionately affect African American and Latino children.
- **“EPA Rules Fail on ‘Justice:’ GAO,” Inside Energy (Aug. 8, 2005) at 16.** On Thursday, August 4, 2005, the Government Accountability Office (“GAO”) issued a report entitled “EPA Should Devote More Attention to Environmental Justice When Developing Clean Air Rules” that concluded that EPA generally paid little attention to environmental justice in issuing three major air rules between 2000 and 2004. GAO contended that EPA ignored Executive Order 12898 when it drafted two rules pertaining to the sulfur content of gasoline and diesel fuel, and a third rule that established new air quality standards for ozone. EPA disagreed with GAO’s findings, as reflected in its comments that were incorporated into the Report.

- **“ReGenesis Helps Revive Declining Neighborhood,” Spartanburg Herald-Journal (Aug. 7, 2005) at 1.** Discusses an Arkwright, South Carolina community’s transformation from environmental justice community into a thriving area. ReGenesis, Inc., a non-profit group that the Arkwright residents organized, spurred the revitalization in collaboration with representatives from the city, county, EPA, and the Spartanburg Housing Authority. The article quotes OEJ’s Charles Lee, who, in discussing the selection of Arkwright in 2000 as a national model, noted that the redevelopment was community driven.
- **“Tapping into Latinos’ Water Fears,” The San Diego Union-Tribune (Aug. 7, 2005) at B1.** The article highlights the fear that many Latinos in California have of drinking tap water. According to a 2002 Public Policy Institute of California environmental survey, 55 percent of Latinos do not drink tap water, which noticeably differs from the 39 percent figure for all adults. In addition, a 2003 San Diego Water Authority Survey revealed that Latinos drink bottled water out of concern of tap water’s quality and safety. A water authority spokesman, however, asserted that these fears are misplaced, as the water is safe and meets all state water quality levels.
- **“South End Biolab Proposal Resisted Neighbors Rally to Block BU Bid,” The Boston Globe (Aug. 7, 2005) at B5.** On August 6, 2005, Safety Net, a group of Roxbury, Massachusetts residents, sponsored a forum to discuss its opposition to Boston University’s plan to build a controversial high-security biodefense lab that will research some of the world’s deadliest diseases. The University, which did not participate in the forum, had already obtained permits to build a Biosafety Level 4 lab in Roxbury, a densely populated urban area. Safety Net asserted, however, that the lab will further burden the large number of minority and low-income residents in Roxbury, who already tolerate a disproportionate number of environmental insults.
- **“Race, Class, and the Global Politics of Environmental Inequity,” Peter Newell, The Center for Strategic and International Studies and the Massachusetts Institute of Technology (August 2005).** The piece discusses the intermingling of global environmental politics and the global politics of exclusion and inequality and observes that race and class are key mediating structures in global environmental politics. The author notes that race and class are relevant to understanding causation, process, and distribution of environmental inequity issues. For instance, the author asserts that the literature on environmental racism provides convincing evidence of disproportionate exposure of poorer communities of color to the most hazardous forms of environmental pollution. The paper lists key reports on environmental racism that have been issued and suggests that prior work on environmental racism demonstrates that communities of color are often targeted, because, among other things, they anticipate less political resistance. Finally, the paper examines the role of law in global environmental politics, particularly its role in producing, and reproducing, environmental injustice.

2. Recent Litigation

In reviewing all the cases, the following were most noteworthy:

- ***In re Rhino Env'tl. Servs.*, 2005 N.M.S.C. 24 (N.M. 2005).** The Rhino Environmental Services sought a permit to place a landfill in a border community comprised primarily of low-income, minority residents. Pursuant to the State's Solid Waste Act, the New Mexico Environmental Department held a public hearing, in which hundreds of residents testified. The Department granted the permit, which the lower court affirmed. Here, the State Supreme Court set aside the final order that approved of the permit. In doing so, the court concluded that the Department's approval of the permit was not proper, because the Department abused its discretion by limiting the scope of the testimony at the public hearing to solely technical issues and failed to consider the impact on public health or welfare resulting from the environmental effects of the permit as the Solid Waste Act, and its implementing regulations, required. Specifically, the court held that "the [Department] abused [its] discretion by limiting the scope of the testimony during the public hearing and interpreting the Department's role as confined to technical oversight." The court found that quality of life concerns expressed during the hearing were pertinent and within the Department's purview. In addition, the court conducted a *de novo* review of the statutory interpretation of the claim that the Department failed to consider the proliferation of industrial sites. The court noted that if proliferation identifiably affected the community's development and social well-being, it constituted an environmental problem. The court emphasized its concern with the Department's treatment of proliferation and refused "to foreclose the possibility that [the public] might build a strong case against the proliferation of landfills in a certain geographical area by demonstrating how an additional landfill in a low-income, undeveloped, minority community without access to adequate health care would cause harmful physical, economic, psychological, and social effects."
- ***In re Bronx Env'tl. Health and Justice, Inc.*, No. 25754-04, 2005 N.Y. slip op. 50891U (N.Y. Sup. Ct. May 11, 2005).** Petitioner, Bronx Environmental Health and Justice, Inc. ("Bronx") sought to vacate the New York City Department of Environmental Protection's ("DEP") selection of a Bronx golf course as the preferred site for a water treatment chemical plant. In denying Bronx's motion, the court addressed each of the Bronx's eight causes of action, including the sixth cause of action where petitioner objected to the environmental analysis set forth in the Final Supplemental Environmental Impact Statement. The court found that the request for judicial review of the environmental justice analysis was premature, because DEP was not required to perform the analysis when it was done. In addition, the court was not persuaded by petitioner's seventh cause of action, which claimed a denial of equal protection based on DEP's siting selection for a park. The court determined that petitioner could not demonstrate that DEP intentionally discriminated against minority communities in its siting decision.
- ***In re Tesoro Ref. and Mktg. Co.*, 2005 EPA CAA Title V LEXIS 9 (2005).** The Order granted in part and denied in part a petition from Our Children's Earth Foundation

(“OCE”), which requested that EPA object to the issuance of a state operating permit (“Permit”) from the Bay Area Air Quality Management District (“District”) to Tesoro Refining and Marketing Company (“Tesoro”) to operate its petroleum refinery, pursuant to Title V of the Clean Air Act. Included in OCE’s petition was a claim setting forth environmental justice concerns. Specifically, OCE asserted that the Permit “has significant implications for environmental justice . . . [and its issuance] violates title VI of the federal Civil Rights Act of 1964.” In making this claim, OCE cross-referenced its other allegations regarding deficiencies in the Permit’s Statement of Basis and the failure to ensure proper public participation. In addition, OCE also asserted that “environmental injustice” occurred due to the Permit’s failure to adequately address non-compliance. EPA dismissed these allegations in finding that OCE provided no legal or factual basis to conclude that EPA must object to the Permit based on environmental justice. EPA noted that its conclusions as to the adequacy of a Title V permit do not determine whether environmental justice issues exist; such that, an EPA finding that an objection is warranted does not necessarily mean that an environmental injustice occurred.

- ***Gustavus Elec. Co.*, 110 F.E.R.C. ¶ 61,334 (Mar. 24, 2005).** In this Order, the Federal Energy Regulatory Commission’s (“FERC”) Commissioners denied a rehearing request that seven interveners (collectively “Sierra Club”) filed in response to an October 29, 2004 Order issuing an original license to Gustavus Electric Company. In denying the rehearing request, the Commission addressed, among other things, Sierra Club’s claim that the final Environmental Impact Statement (“EIS”), which was issued in July 2004, failed to demonstrate compliance with Executive Order 12898. Sierra Club asserted that the project would have disproportionate impacts due to increased trespass and spillover impacts from the use of nearby areas for sport hunting, potential mineral extraction, and other activities. The Commission reviewed the EIS and found little support that disproportionate impacts would occur; rather, it concluded that any potential environmental impacts would be minor.
- ***Lynn v. Village of Pomona*, 373 F. Supp.2d 418 (S.D.N.Y. 2005).** The Plaintiff builder alleged that the defendants violated his rights under the Fair Housing Act (“FHA”), as well as various state laws, by discriminating against him because he sold certain homes to minorities. The FHA makes it unlawful for any person to refuse to sell or otherwise make unavailable a dwelling to any person due to, among other things, race. Specifically, the builder alleged that defendants caused significant delays with respect to permits and approvals for homes, because he sold to minority purchasers. The builder filed a HUD complaint alleging disparate treatment. Defendants filed a motion for summary judgment. While the court found that the builder had standing to bring the action, it determined that he failed to establish a *prima facie* case for disparate treatment, because he failed to identify any lots developed by other builders that were similarly situated and treated differently. The court granted defendant’s motion for summary judgment and dismissed the case.

3. Regulatory/Legislative/Policy

The following list of items appears to be the most pertinent:

A. **Federal Congressional Bills and Matters.**

- **H.R. 3561, “Healthcare Equality and Accountability Act,” introduced on July 28, 2005 by Representative Michael M. Honda (D-CA). *Status: Referred to the House Committee on Energy and Commerce, as well as House Committees on Education and Workforce, Resources, Judiciary, Ways and Means, and Agriculture. Similarly, S.1580, “Healthcare Equality and Accountability Act,” introduced on July 28, 2005 by Senator Daniel K. Acacia (D-HI). *Status: Referred to the Senate Committee on Finance on July 29, 2005.**** This Bill would improve the health of minority individuals. Of particular interest are the following provisions contained in Subtitle C, “Improving Environmental Justice:” (1) Section 621(1), which defines environmental justice; (2) Section 622, which sets forth the environmental justice responsibilities of federal agencies; (3) Section 623, which discusses the Interagency Environmental Justice Working Group; (4) Section 624, which describes requirements for federal agency strategies; (5) Section 625, which establishes, and describes the duties of, a Federal Environmental Justice Advisory Committee; and (5) Section 626, which articulates information on human health and environmental research, including information on disproportionate impacts.
- **House Resolution 392 on Conference Report to H.R. 2361, “Department of Interior, Environment, and Related Agencies Appropriations Act, 2006,” 151 Cong. Rec. H. 6941 (July 28, 2005). *Status: Passed/agreed to in the House. On agreeing to the Resolution, Agreed to by voice vote on August 28, 2005.*** Calls for consideration of the Conference Report that accompanies the appropriations Bill for the Department of Interior, Environment and related agencies. Of particular interest are the comments of Representative Alcee Hastings (D-FL), who urged the inclusion of a provision in the conference report that prohibited funds in the Bill from being used in contravention of Executive Order 12898. Representative Hastings believed that including this provision sent a clear message to EPA.
- **H.R. 1807, “Community Environmental Equity Act,” introduced on April 21, 2005 by Representative Nydia M. Velazquez (D-N.Y.). *Status: Referred to House Subcommittee on Health on May 13, 2005.*** This Bill, which would amend the Public Health Service Act to prohibit discrimination regarding exposure to hazardous substances, requires the Federal Interagency Environmental Justice Working Group to submit a report to Congress two years after finalization of these rules and every two years thereafter.
- **H.R. 1648 introduced on April 14, 2005 by Representative Alcee L. Hastings (D-FL). *Status: Referred to the House Subcommittee on Environment and Hazardous Materials on April 22, 2005.*** This Bill would require Executive Order 12898 to remain in force until changed by law. In addition, the Bill would expand the definition of

environmental justice and directs each federal agency to establish an Environmental Justice Office. The Bill states that criteria for defining an environmental justice community shall include demographic characteristics, such as percentages of minority residents, health vulnerabilities, and environmental conditions, such as proximity to Superfund Sites. The Bill also calls for the integration of environmental justice policies into agency actions, including future rulemaking activities and development of future guidance, regulations, or procedures.

- **House Resolution 144 on H.R. 3, “Transportation Equity Act: A Legacy for Users,” 151 Cong. Rec. H. 1272 (Mar. 10, 2005). Status: Passed/agreed to in the House. On agreeing to the Resolution, Agreed to by voice vote on March 10, 2005.** The Bill would, among other things, authorize funds for federal-aid highways, highway safety, and transit programs. Included for consideration was an amendment to Section 5203 of the Bill, which would require the development of operational definitions and indicators for environmental justice and social equity as they pertain to transportation.
- **Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice include:**
 - **151 Cong. Rec. E. 1695 (July 29, 2005), speech of Representative Dennis J. Kucinich (D-OH) (July 28, 2005).** Representative Kucinich introduced discussion on a consortium of nuclear utilities’ proposal to place a giant nuclear waste dump on Native American land against the Tribe’s consent, which the Representative asserted raised environmental justice issues.
 - **151 Cong. Rec. E 1342 (June 24, 2005), speech of Representative Raul M. Grijalva (D-AZ) (June 23, 2005).** Representative Grijalva commended winners of the 2005 Goldman Environmental Prize, which recognized the outstanding work of grassroots environmentalists to ensure social and environmental justice.
 - **151 Cong. Rec. E 1053 (May 23, 2005), speech of Representative Dennis J. Kucinich (D-OH) (May 19, 2005).** Representative Kucinich urged his colleagues to support the Hastings Amendment, which would require federal agencies to incorporate environmental justice into their core missions pursuant to the Executive Order.
 - **151 Cong. Rec. H 3651 (May 19, 2005), discussion of Amendment to H.R. 236, “Department of Interior, Environment, and Related Agencies Appropriations Act, 2006” offered by Representative Alcee L. Hastings (D-FL).** Representative Hastings offered an Amendment to H.R. 236 that would prohibit EPA from using funds in the Appropriations Bill in contravention of Executive Order 12898. The Amendment was agreed to.
 - **151 Cong. Rec. E 884 (May 5, 2005), speech of Representative Charles B. Rangel (D-N.Y.).** Representative Rangel recognized the Earth Day events in Harlem and praised the contributions of West Harlem Environmental Action, Inc., a non-profit environmental grassroots group

that addressed equity and justice in environmental issues for predominantly African-American and Latino communities.

- **151 Cong. Rec. H 2399 (April 21, 2005), discussion of Amendment No. 29 offered by Representative Alcee L. Hastings (D-FL).** Representative Hastings discussed Amendment 29, which would essentially codify Executive Order 12898, noting that the Amendment established an office of environmental justice in appropriate offices and reestablished the Interagency Federal Working Group on Environmental Justice. Representative Hastings asserted that the most important aspect of the Amendment was its attempt to define the term “environmental justice” for the first time. Representative Joe Barton (R-TX) spoke in opposition to the Amendment, categorizing it as unnecessary. Representative Randy Cunningham (R-CA) also spoke in opposition. Representative Hilda Solis (D-CA) spoke in support of the Amendment, noting that the Bush Administration had cut 33 percent of environmental justice monies. In addition, Representative Mark Udall (D-CO) spoke in support of the Amendment noting that its adoption would ensure that “current and future [f]ederal policies will be informed by the need to protect minority and low-income communities from poor environmental and energy decisions and policies.” In the end, further proceedings on the Amendment were postponed.

- **Federal Register Notices.**

- **EPA, Environmental Impact Statements and Regulations; Availability of EPA Comments, 70 Fed. Reg. 45,390 (Aug. 4, 2005).** EPA announced the availability of its comments pursuant to the Environmental Review Process (“ERP”), as required by Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act. With regard to the draft Environmental Impact Statements (“EIS”), EPA raised concerns with: (1) the “1st Street Viaduct and Street Widening Project,” due to the proposed project’s air quality impacts. EPA also raised concerns about similar transportation projects in the project vicinity and requests a broader environmental justice analysis; (2) “Grand Gulf Early Site Permit Site,” due to concerns of wetlands and aquifer impacts, as well as environmental justice; and (3) “Creeks Forest Health Recovery Project,” due to environmental concerns about water, air, and environmental justice impacts. With regard to the final EISs, EPA raised concerns with the “Folsom Dam Road Access Restriction Project,” due to continued concerns that changes in traffic patterns may indirectly lead to localized air quality and environmental justice impacts.
- **EPA, Ethylene Oxide Risk Assessment: Notice of Availability, 70 Fed. Reg. 44,632 (Aug. 3, 2005).** The notice announced the availability of EPA’s human health risk assessment for the pesticide ethylene oxide (“ETO”) and opened a public comment period on the related documents that closes on October 3, 2005. EPA is developing a Reregistration Eligibility Decision for ETO, which is a fumigant used, among other things, to sterilize medical or laboratory equipment. One particular area that EPA was

interested in receiving comments on was its goal to achieve environmental justice. Specifically, EPA sought information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to ETO, compared to general populations.

B. State Congressional Bills and Matters.

- **California, Senate Bill 87, introduced January 14, 2005, by Committee on Budget and Fiscal Review. *See also* California, Assembly Bill 141, introduced on January 13, 2005, by Committee on Budget. Status: *Passed the Senate on July 7, 2005; Approved by Governor on July 21, 2005; Filed with Secretary on July 21, 2005.*** The Bill amends an existing law that requires the Department of Food and Agriculture to adopt specifications for gasoline or automotive spark-ignition fuels for use in internal combustion engines and motor vehicles. The Bill adds Section 901 of the Public Utilities Code, which provides, among other things, that at least one public meeting of the CAL-EPA Environmental Justice Advisory Committee will be held to solicit input on the appropriate siting criteria and location of hydrogen fueling stations and production facilities to address environmental justice concerns. The Bill specified that Section 901 will be repealed on January 1, 2007.
- **California, Senate Bill 870, introduced on February 22, 2005, by Senator Martha M. Escutia (D-Montebello (District 30)). Status: *Amended on May 4, 2005; Set, first hearing on May 26, 2005. Held in Committee (Senate Appropriations) and under submission.*** The Bill amends a law that vested local and regional authorities with primary responsibility for controlling air pollution from all sources other than vehicular sources. The Bill amends Article 3.2, "Enforcement," by adding Section 42417, which provides that a strategy will be established to address the lack of enforcement of air pollution laws and regulations in low-income and minority communities. The Bill also provides that the strategy will identify actions to enhance enforcement of environmental justice, including creating environmental justice enforcement zones.
- **California, Senate Bill 923, introduced on February 22, 2005, by Senator Dean Florez (D-Shafter (District 16)). Status: *Amended on March 29, 2005; In assembly, read first time, held at desk on August 22, 2005.*** The Bill added Chapter 2.8, "Transition Assistance Act of 2005," to Part 1 of Division 3 of the Unemployment Insurance Code. Section 9951 of this Chapter provided, in part, that any shift in the use of public resource that causes a disproportionate impact to any citizens of the State should be mitigated to ensure environmental justice.
- **California, Senate Bill 985, introduced on February 22, 2005, by Senator Joseph Dunn (D-Garden Grove (District 34)). Status: *Amended on April 12, 2005; set, first hearing on May 26, 2005. Held in Committee (Senate Appropriations) and under submission.*** The Bill would add Section 110592 to the Health and Safety Code and would require the State Department of Health Services to regulate lead in candy, as well

as require to the Department to test the candy to determine the presence of lead and remove candy from shelves or retailers if it contains lead at levels above permissible standards. The Bill also specified that the Department will enter into five to ten grants to environmental justice organizations throughout the state to identify stores and candy that should be tested. Further, the environmental justice organizations shall use community fliers listing adulterated candy and lead free candy for community education and outreach.

- **California, Assembly Bill 597, introduced on February 17, 2005, by Member of the Assembly Cindy Montanez (D-District 39). Status: Amended in Senate June 27, 2005. In Committee (Senate Environmental Quality): set, final hearing. Hearing canceled at request of author on August 24, 2005.** The Bill amends the existing law, “The California Land Reuse and Revitalization Act of 2004,” which provides that an innocent landowner, bona fide prospective purchaser, or contiguous property owner qualifies for immunity from liability for response costs or damage claims for a Site in an urban infill area if certain conditions are met. Among other things, the Bill would require consideration of environmental justice for communities most impacted, including low-income and racial minority populations.
- **Delaware, General Notice, “Arsenic Risk Management Proposal Draft Background Document,” Department of Natural Resources and Environmental Control, 2005 Reg. LEXIS 24021 (Aug. 1, 2005).** Document proposed to establish a cleanup goal for arsenic in soil at residential settings at a default background concentration of 11 parts per million (“ppm”). In addition, the document sought significant public participation in finalizing this cleanup goal and solicited public comment by providing the rationale for the proposal. Section 2.5 set forth the environmental justice considerations for the proposal. The Department asserted that it has adopted EPA’s definition of environmental justice and sought to implement equitable cleanup strategies with particular attention to insuring adequate protection and public participation where disadvantaged populations may bear a disproportionate amount of adverse environmental health effects. In determining whether the 11 ppm background concentration standard is appropriate, the Department stated that it would make environmental justice considerations paramount.
- **Illinois, Senate Resolution 127, introduced on April 6, 2005, by Senator Kimberly A. Lightford (D-Maywood (District 4)). Status: Resolution Adopted on April 8, 2005.** The Resolution recognized the life of Leola Spann of Chicago, who died on March 27, 2005 at the age of 71 and noted, among other things, her use of a model of environmental justice to start the Austin Green Team, which turned abandoned lots into gardens that benefitted the community.
- **Georgia, House Resolution 540, introduced on March 14, 2005, by Representative Sheila Jones (D-District 44). Status: Resolution Adopted.** The Resolution recognized the work of Ms. Na’Taki Osborne and noted that Ms. Osborne co-founded the Center for Environmental Public Awareness, a nonprofit organization that supports community

groups that seek environmental justice. It also recognized her advocacy of, and expertise in, environmental justice issues.

- **Hawaii, Senate Concurrent Resolution 140, introduced on March 16, 2005, by Senator Colleen Hanabusa (D-District 21). Status: Adopted on May 3, 2005. See also Senate Concurrent Resolution 201, introduced on March 16, 2005, by Senator Kalani J. English (D-District 6). Status: Referred on March 22, 2005; Senate Resolution 109, introduced on March 16, 2005, by Senator Kalani J. English (D-District 6). Status: Referred on March 22, 2005; Senate Concurrent Resolution 140, House Draft 1, introduced on April 22, 2005, by Senator Colleen Hanabusa (D-District 21). Status: Adopted on May 3, 2005; House Resolution 200, introduced on March 31, 2005, by Representative Hermina M. Morita (D-District 14). Status: Adopted on April 1, 2005; House Concurrent Resolution 271, House Draft 1, introduced on March 31, 2005, by Representative Hermina M. Morita (D-District 14). Status: Adopted on April 1, 2005.** The Senate Resolution, with House concurrence, requested the Environmental Council, the Office of Environmental Quality Control, and the University of Hawaii Environmental Center develop and promulgate a guidance document on including environmental justice principles in all phases of environmental review undertaken pursuant to Hawaii Revised Statutes Chapter 343. In developing the guidance document, the Resolution mandated that input should be sought from a wide variety of interested parties, including high school students. In addition, the Resolution noted the need for continued improvement of the State's environmental impact statement process. The Resolution further requested the Environmental Council to submit the requested guidance document and any recommendations to the Legislature no later than twenty days prior to convening of the 2006 Regular Session.
- **Hawaii, Senate Resolution 78, introduced on March 16, 2005, by Colleen Hanabusa (D-District 21). Status: Adopted on April 15, 2005.** The Resolution requested the Department of Health to develop and issue a guidance document on environmental justice policy that will apply to environmental review at all levels under Hawaii Revised Statutes Chapter 343. The guidance document will set forth procedures that ensure inclusion of the following in the environmental review: (1) analysis of disproportionately high and adverse effects on minority and low-income communities; (2) effective public participation and access to information; (3) actions to undertake if disproportionately high and adverse effects are identified. The Department of Health was requested to submit the guidance document and any recommendations no later than twenty days prior to the convening of the 2006 Regular Session.
- **Louisiana, House Resolution 98, introduced on June 9, 2005, by Representative Michael L. Jackson (D-District 61). Status: Adopted. Enrolled on June 13, 2005.** The Resolution commended Robert L. Harris, the current Vice President of environmental affairs at the Pacific Gas & Electric Company, and recognized, among other things, his efforts as a former board member of EPA's National Advisory Council on Environmental Justice, as well as on the California EPA Advisory Committee on Environmental Justice.

- **Maine, Senate Bill 435, “An Act to Ensure Environmental Justice,” introduced on March 15, 2005, by Senator Ethan Strimling (D-Cumberland County (District 8)).** *Status: Placed in legislative files on May 23, 2005.* The Bill, a concept draft, would require the Commissioner of Environmental Protection to convene a working group on environmental justice to assist the Department of Environmental Protection develop an interagency environmental justice strategy. The working group would have to take various actions that implements environmental justice strategies.
- **Minnesota, House Bill 2374, introduced on April 7, 2005, by Representative Karen Clark (D-FL (District 61A)).** *Status: Agriculture, Environment, and Natural Resources Finance on April 7, 2005. See also Minnesota, Senate Bill 2136, introduced on April 6, 2005, by Senator John Marty (D-FL (District 54)). Status: Referred to Environment and Natural Resources on April 6, 2005.* The House and Senate Bills would require the Commissioner of the Pollution Control Agency to apply for federal funding to expand the Agency’s environmental justice mapping project. In addition, the Commissioner shall coordinate with the Departments of Health and Agriculture to explore potential links between environmental health and toxic exposures and to help create a environmental public health tracking system.
- **Minnesota, Senate Bill 2101, introduced on April 4, 2005, by Senator Mee Moua (D-FL (District 67)).** *Status: Referred to Health and Family Security on April 4, 2005. Author added on April 11, 2005 (Senator Becky Lourey). See also Minnesota, House Bill 2067, introduced on March 22, 2005, by Representative Karen Clark (D-FL (District 61A)). Status: Referred to Health Policy and Finance on March 22, 2005. Author added on March 23, 2005 (Representative Phyllis Kahn).* The Bill specified some “health disparities” (*i.e.*, asthma, diabetes, and cancer) and some “toxic sources” (*i.e.*, Superfund Sites, incinerators, and power generating plants). In addition, the Bill called on the Commissioner of Health, in coordination with the Commissioners of Agriculture and the Pollution Control Agency to evaluate the feasibility of implementing an environmental justice tracking system to assess and disseminate information on health disparities, as well as information from the Department of Health’s Birth Defects Registry and Cancer Registry. The Bill also called on the Commissioners to seek federal funding and to use existing geographical information systems. Finally, the Bill required the Commissioner of Health to file an annual report that, among other things, assessed data and recommended the most effective methods for communicating findings to the affected populations.
- **Nebraska, Legislative Resolution 91, introduced on April 25, 2005 (Read for First Time), by Senator Don Priester (D-Bellevue (District 5)).** *Status: Referred to Executive Board.* The Resolution sets forth that the Natural Resources Committee of the Legislature shall conduct an interim study that examines environmental justice issues in Nebraska. In addition, Committee shall report findings and recommendations to the Legislative Council or Legislature at the conclusion of the study.

- **New York, Senate Bill 1497, introduced on January 31, 2005, by Senator Velmanette Montgomery (D-W (District 18)).** *Status: Amended and recommitted to Social Services, Children, and Families on June 17, 2005.* The Act, among other things, amended the environmental conservation law pertaining to integrated pest management in child day care settings. The amendment required training on the protection of health and safety of children, including integrated pest management procedures, and stemmed from the legislative finding that young children, including those in day care, were at a disproportionate risk to environmental hazards, like pesticide exposure, due to their small body size. Specifically, they are exposed to, and absorb more, toxic substances per pound of body weight than adults.
- **New York, Senate Bill 5717, introduced on June 15, 2005, by Senator James W. Wright (R-I-C (District 48)) (among others).** *Status: Referred to Rules on June 15, 2005.* The Bill sought to amend various laws, including the environmental conservation law, energy law, and public service law. Environmental Justice issues are implicated in a proposed amendment that adds New Article 10 to the Public Service Law. Specifically, Section 163 was added, which called for a preliminary description of predictable, significant, and adverse disproportionate environmental impacts from the construction and/or operation of the proposed facility. In addition, Section 163-A was added, which called for the analysis of environmental justice issues consistent with any applicable Department of Environmental Conservation regulations if the proposed non-major electric generating facility may have predictable, significant, and adverse disproportionate environmental impacts from the construction and/or operation of the proposed facility. The Bill provided the Board with final decisionmaking authority and called on the Board to consider environmental justice issues.
- **New York, Senate Bill 4809, “New York State Environmental Justice Act,” introduced on April 18, 2005, by Senator Kevin S. Parker (D-W (District 21)).** *Status: Referred to Environmental Conservation on April 18, 2005.* The Act established governmental procedures to safeguard residents’ health and welfare and achieve environmental justice. The Act defined the term “environmental justice” and provided for the: (1) implementation of environmental justice policies, which included the establishment of an environmental justice advisory council to advise on environmental justice issues; and (2) establishment of an environmental justice task force, which will recommend actions to address environmental justice issues and develop action plans for selected communities disproportionately affected by environmental health risks.
- **New York, Assembly Bill 6471, introduced on March 15, 2005, by Member of the Assembly Vivian E. Cook (D-District 32).** *Status: Referred to Ways and Means on April 5, 2005.* The Bill sought to create a twenty-five member Task Force on environmental justice that would, among other things, develop criteria for identifying disproportionate adverse human health or environmental effects on racial and ethnic minority populations and low-income communities, review state and local environmental

laws to determine if they adequately identify and prevent the inequitable distribution of adverse human health and environmental impacts, and coordinate with state agencies in developing environmental justice strategies. The Bill also provided that the Task Force will create an environmental justice strategy and report initial findings and recommendations to the Governor and the legislature by January 1, 2007. The Task Force shall also issue a report with conclusions by no later than June 30, 2007.

- **Oregon, Senate Bill 542, sponsored by Senator Avel Gordly (D-Portland (District 23)).** *Status: Engrossed on May 3, 2005.* The Bill created an Environmental Justice Task Force, consisting of 12 appointed members. The Governor appoints the members, who should be well-informed on the principles of environmental justice and, to the greatest extent practicable, represent minority and low-income communities, as well as environmental interests, industry groups, and geographically diverse areas of the State. The Governor will appoint one member from the Commission of Asian Affairs, Commission on Black Affairs, Commission on Hispanic Affairs, and Commission on Indian Services. Each term is four years at the Governor's pleasure. The Task Force must submit an annual report to the Governor that details the progress toward achieving specified goals.
- **Virginia, Senate Bill 804, introduced on January 7, 2005, by Senator Henry L. Marsh, III (D-District 16), on March 26, 2005.** *Status: Approved on March 26, 2005 (Effective: July 1, 2005).* This Act amended and reenacted the portion of the Code of Virginia related to the Martin Luther King, Jr. Living History and Public Policy Center Board of Trustees. Of particular note is the amendment that added Chapter 27 of Title 2.2 that specified in Section 2.2-2729(B)(12) that the Center will conduct public forum, conferences, lectures, and research to address contemporary issues and public policies related to, among other things, disparity in health care and environmental justice.